

1 cannot create a triable issue of fact by contradicting its own prior sworn deposition testimony. *See*,
 2 *e.g.*, *Harris v. City of Seattle*, 315 F. Supp. 2d 1105, 1111 (W.D. Wash. 2004). Accordingly, this
 3 Court should disregard Freiberg’s second deposition testimony that customer service representatives
 4 are required to lead devotions. Even if this Court were to credit that testimony, it would still not be
 5 a basis to find the ministerial exception applicable to customer service representatives. As noted just
 6 above, “leadership of devotions” is “a part of *every* WVUS job description.”

7 Even assuming leading devotions is a “religious duty” for all World Vision employees, it is
 8 a minor one. *All* World Vision staff members are permitted to spend a maximum of 45 minutes per
 9 week involved in devotions (whether it be leading one or merely being present at one). Accordingly,
 10 in any given week, assuming a World Vision staff member is leading the devotion for the entirety
 11 of the sessions (which would go against the idea of rotating leadership), “leading devotions” would
 12 amount to less than two percent of a full-time employee’s work week.

13 One of the significant factors in determining whether an employee falls within the ministerial
 14 exception is whether she had “a role distinct from that of most of [the organization’s] members.”
 15 *Hosanna-Tabor*, 565 U.S. at 191. World Vision’s own documents show that customer service
 16 representatives’ participation in chapel and leading devotions was no different from most of the
 17 organization’s other employees. The limited extent to which customer service representatives
 18 participate in chapel services and devotions does not make them ministers, any more than such
 19 participation makes every other World Vision employee a minister.

20 **4. It is Undisputed that Praying with Donors or Potential Donors was not a
 21 Job Requirement of the Customer Service Representative Position**

22 The eleventh enumerated requirement of the customer service representative job description
 23 reads: “Be sensitive to Donor’s needs and pray with them when appropriate.” Thus, the customer
 24 service representative job description *encourages* but does not mandate those employees to pray
 25 with potential donors. Freiberg confirmed that while praying with donors is *encouraged*, it is not a
 26 job requirement. Exh. 10, at 24:2-11. In a “guidance document” bearing the heading “Showing
 Empathy on a Call During a Crisis (Talking Points)” — which was a document used to assist customer